IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

Bail Appl..No. 3696 of 2007()

CRIME NO. 158/07 OF ANCHAL POLICE STATION

PETITIONER

BIJU,
MANJU VILASAM, VADAMON, ANCHAL.

BY ADV. SRI.R.KRISHNA RAJ

RESPONDENTS:

SUB INSPECTOR OF POLICE,
ANCHAL, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

B.A.No. 3696 of 2007

- -

Dated this the 19th day of June, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations, inter alia, under Section 308 I.P.C. and Section 27 of the Arms Act. The crux of the allegations is that on a complaint by the petitioner's sister that he is threatening her with a dangerous weapon, the police party went to the scene and the police party was allegedly attacked, threatened and deterred by the petitioner. No one had suffered any injury proper. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He does not deserve to suffer the trauma of arrest and incarceration. The petitioner has some mental ailment and he did not intend to cause any act as alleged. This in short is the plea.

3. Whether the petitioner is entitled for the defence of insanity will have to be decided on the basis of the materials available in the trial. I am not persuaded to invoke the extra ordinary equitable

discretion under Section 438 Cr.P.C. in favour of the petitioner at this stage on the basis of such a defence raised by the petitioner. The petitioner must surrender before the Investigating Officer or the learned Magistrate having jurisdiction and then seek bail in the regular and ordinary course. If the petitioner surrenders, certainly the Investigating Officer will have to consider and probe into the present plea raised that the petitioner suffers from some mental ailment.

4. This application is accordingly dismissed with the above observations.

(R. BASANT)
Judge

tm